IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

FRIDAY, THE 12TH JANUARY 2007 / 22ND PAUSHA 1928

WP(C).No. 1565 of 2007(J)

AS.188/1999 of ADDL. DISTRICT COURT, NORTH PARAVUR
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PETITIONER:

PINKU.H.THALIATH, D/O.HORMIS THALIATH
ALIAS URUMESE, RESIDING AT THALIATH HOUSE,
POWER HOUSE EXTENSION ROAD, COCHIN-18.

BY ADV. SMT. PINKU H. THALIATH (PARTY IN PERSON)

RESPONDENTS:
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1. KOCHURANI @ ANITHA, W/O.JOY JOSEPH,
VALIPLACKAL, VENMATTOM KARA, ELAMKULAM VILLAGE,
KANJIRAPPALLY TALUK, KOTTAYAM DISTRICT.

2. MRS BIBI THALIATH, W/O.HORMISM THALIATH,
RESIDING AT THALIATH HOUSE, POWER HOUSE EXTENSION
ROAD, COCHIN-18.

3. JOHNY URUMESE, THALIATH HOUSE,
NEAR BHARANANGANAM CHURCH, BHARANANGANAM, PALA.

4. THOMAS HORMIS THALIATH,WOLFRUN,
GIRGIA 30043, WOLFRUN,USA.

5. BABU URUMESE, THALIATH HOUSE,
NEAR BHARANANGANAM CHURCH, BHARANANGANAM,
PALA.

6. ANJU THALIATH, THALIATH HOUSE,
POWER HOUSE EXTENSION ROAD, COCHIN-18.

7. HORMIS LONA THALIATH, RESIDING AT
THALIATH HOUSE,POWER HOUSE EXTENSION ROAD,
COCHIN-18.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO. 1565 OF 2007

Dated 12th January 2007

J U D G M E N T

Petitioner is second additional appellant in A.S.188/99 on the file of Additional District Court, North Paravur. Appeal was allowed and suit was remanded back to trial court on 21/12/2006. This petition is filed under Article 227 of Constitution of India contending that though petitioner filed application for certified copy of judgment with an intention to file appeal challenging the order of remand, it was not issued and therefore petitioner cannot approach this court or obtain an order of stay and therefore District court is to be directed to issue certified copy of the judgment immediately. It was also contended that till petitioner gets certified copy of the judgment trial court proceedings are to be stayed.

2. On hearing the petitioner, I do not find it necessary to stay the further proceedings of the suit in the trial court. Even according to the petitioner

appeal was allowed and suit was remanded only on 21/12/2006. Learned Munsiff could take up the suit for recording evidence only after including it in the special list. If so, petitioner will get sufficient time to challenge the judgment in A.S.188/99.

3. If petitioner had filed copy application for certified copy of decree and judgment in A.S.188/99 on 1/1/2007 or any subsequent day as represented and files an emergent application for certified copy, learned Additional District Judge, North Paravur to issue certified copy of the judgment and decree without any delay and as expeditiously as possible. If the apprehension of petitioner is that before getting certified copy of the judgment learned Sub Judge may take up the suit remanded, petitioner is at liberty to apply for a short adjournment before the learned Sub Judge and in that event Sub Judge to pass appropriate orders.

Writ petition is dismissed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.